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U.S. DISTRICT COURT  
 2012 OCT 18 PM 4:01  
 DISTRICT OF UTAH  
 BY: DEPUTY CLERK

*Pro Se Plaintiff*

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**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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JESSE C. TRENTADUE,

Plaintiff,

vs.

FEDERAL BUREAU OF  
 INVESTIGATION, and the UNITED  
 STATES DEPARTMENT OF JUSTICE  
 OFFICE OF INFORMATION AND  
 PRIVACY,

Defendants.

**COMPLAINT**

Case No.: 2:12cv974

Judge

Magistrate Brooke C. Wells

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By way of *Complaint* under the *Freedom of Information Act*, 5 U.S.C. §§

552 *et. seq.* (hereinafter “*FOIA*”), Plaintiff Jesse C. Trentadue alleges and

complains against the Federal Bureau of Investigation, and the United States

Department of Justice Office of Information and Privacy (collectively “FBI

Defendants”) as follows:

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Case: 2:12-cv-00974  
 Assigned To : Wells, Brooke C.  
 Assign. Date : 10/18/2012  
 Description: Trentadue v. Federal Bureau  
 of Investigation et al

**I.**  
**INTRODUCTION**

1. FBI Defendants, as part of an apparent secret surveillance program not designed to target either actual violations of federal law or even suspected violations of federal law, have a policy and/or practice of recruiting confidential informants who are in the national news media; on the staffs of Senators and Congressmen; members of clergy or religious organizations; associated with defense teams in high profile federal criminal prosecutions; part of state and local law enforcement agencies; and/or employed by other federal agencies, including White House staff.

2. Furthermore, as a result of their response to Plaintiff's *FOIA* request for the policies, rules, protocols and/or procedures governing recruitment and use of such informants in this secret surveillance program, it appears that FBI Defendants may even have informants on the staffs of federal judges.

3. The apparent objective, purpose and desired effect behind this secret surveillance operation mounted by FBI Defendants against the national media, Senators, Congressmen, religious organizations, criminal defense teams, other federal agencies and perhaps even federal judges, is to subvert and undermine the

*United States Constitution*, especially the *Separation of Powers Doctrine* and the *Bill of Rights*.

4. Plaintiff uncovered the existence of this secret surveillance program as the result of his related *FOIA* lawsuit against FBI Defendants to obtain a copy of the videotape taken on the morning of April 19, 1995 by external surveillance cameras mounted on the Alfred P. Murrah Federal Building in Oklahoma City, which federal government records state recorded both the delivery of the bomb which destroyed the Murrah Building that morning and the perpetrators of that attack.<sup>1</sup>

5. During the course of that related *FOIA* lawsuit, Plaintiff discovered that FBI Defendants apparently used confidential informants within the national news media to receive advance notice of news stories that would be critical of them so as to temper or even prevent those stories, and to learn the names of individuals who approached the media, under assurances of anonymity, with information about, or of interest to, FBI Defendants, all of which was a violation of the *First Amendment*. FBI Defendants' disturbing practice of using private

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<sup>1</sup> *Trentadue v. Federal Bureau of Investigation, et. al*, District of Utah Case No. 2:08-CV-788 CW.

citizens as spies in the media, on defense teams, in religious organizations as well as state and federal governments is designed to and does result in the circumvention of the protections guaranteed to American citizens by the *Bill of Rights* and the *Separation of Powers Doctrine*.

6. Seemingly recognizing the unconstitutionality of this secret surveillance, FBI Defendants' refer to such informants as "*Sensitive Confidential Human Sources*" or "*Sensitive Informants*." FBI Defendants have also prepared and issued policies, procedures, rules, protocols and even one or more manuals governing their recruitment and use of *Sensitive Informants*.

7. These *Sensitive Informants* are each given an identification number by FBI Defendants. During the Oklahoma City Bombing investigation, for example, FBI Defendants recruited and used a high level employee of ABC News, who they identified as "NY 29000-SI-DT."<sup>2</sup>

8. Upon information and belief, with respect to the identification "NY 29000-SI-DT" given by FBI Defendants to this particular *Sensitive Informant* inside ABC News, the "NY" signifies the FBI Field Office (New York City) out of

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<sup>2</sup> See Exhibit 1 hereto. NY 29000-SI-DT is reported to be Christopher Isham, currently a vice president of CBS News and that networks' Washington Bureau Chief. See Exhibit 2 hereto.

which he or she was being handled or managed by FBI Defendants; the number 29000 is the specific identification number assigned to this individual; “SI” documents his or her status as a *Sensitive Informant*, and “DT” refers to “Domestic Terrorism,” which was the subject on which this individual was apparently providing confidential information to FBI Defendants.<sup>3</sup>

9. With this *Complaint* for *de novo* review pursuant to 5 U.S.C. § 552(a)(4)(B), Plaintiff is asserting his rights under *FOIA* and the *United States Constitution* to the production of FBI Defendants’ documents and records related to *Sensitive Informant* NY 29000-SI-DT, and the policies, rules, protocols and/or procedures that govern FBI Defendants recruitment, use and/or management of these *Sensitive Informants*.

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<sup>3</sup> ABC News seems to have been riddled with FBI informants during the Oklahoma City Bombing investigation. However, *Sensitive Informant* status appears to have been reserved for upper management within ABC News; whereas informants inside local ABC News affiliate television stations are identified by FBI Defendants as only a “confidential source.” *See* Exhibit 3 hereto.

## **II. PARTIES**

10 Plaintiff is a citizen of the United States and a resident of Salt Lake County, Utah.

11. The Federal Bureau of Investigation is an “agency” of the Executive Branch of the United States of America within the meaning of 28 *U.S.C.* §§ 551(1) and 552(f)(1). As an agency of the Executive Branch, the Federal Bureau of Investigation is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

12. The United States Department of Justice Office of Information and Privacy is an “agency” of the Executive Branch of the United States of America within the meaning of 28 *U.S.C.* §§ 551(1) and 552(f)(1). The Department of Justice Office of Information and Privacy is subject to *FOIA* and a proper party within the meaning of 5 *U.S.C.* §§ 702 and 703.

## **III. JURISDICTION AND VENUE**

13. This Court’s jurisdiction over this matter arises under 5 *U.S.C.* § 552(a)(4)(B); the *Bill of Rights*; *Article III* of the *United States Constitution*, the *Administrative Procedures Act*, 5 *U.S.C.* §§ 701 *et seq.*; 28 *U.S.C.* § 1331; and the

equitable powers inherent in the Courts of the United States of America.

14. Venue lies within this Court pursuant to 5 *U.S.C.* § 552(a)(4)(B) and 28 *U.S.C.* § 1391(e).

#### IV. GENERAL ALLEGATIONS

15. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for all operational records, directly or indirectly, related to *Sensitive Informant* NY 29000-SI-DT including, but not limited to, FD-302s, inserts, notes, reports, evaluations, etc.<sup>4</sup>

16. On or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for these operational records related to *Sensitive Informant* NY-29000-SI-DT.<sup>5</sup>

17. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for all administrative records, directly or indirectly, related to *Sensitive Informant* NY 29000-SI-DT including, but not limited to, records

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<sup>4</sup> Exhibit 4, p. 1. The record of Plaintiff's *FOIA* request for the operational records of *Sensitive Informant* NY 29000-SI-DT is attached hereto as Exhibit 4 and incorporated by reference.

<sup>5</sup> *Id.* at p. 5.

showing FBI Defendants' chain of approval and/or consent to this individual acting or serving as an informant; records showing this individual's willingness and/or consent to serve as a *Sensitive Informant*; records showing the money or other consideration given to this individual for acting as a *Sensitive Informant*; records showing when, if ever, this individual terminated his or her services as a *Sensitive Informant* and the reason or reasons for that termination; and records showing the terms and conditions under which this individual had agreed to act or serve as a *Sensitive Informant*.<sup>6</sup>

18. On or about April 24, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for these administrative records related to *Sensitive Informant* NY-29000-SI-DT.<sup>7</sup>

19. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants from within the media; the

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<sup>6</sup> Exhibit 5, p. 1. The record of Plaintiff's *FOIA* request for the administrative records of *Sensitive Informant* NY 29000-SI-DT is attached hereto as Exhibit 5 and incorporated by reference.

<sup>7</sup> *Id.* at p. 5.



placement of informants within the media; and/or describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>8</sup>

20. Shortly thereafter, on or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for records related to "FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN THE MEDIA."<sup>9</sup>

21. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who are on the staffs of United States Senators and/or Members of Congress; the placement of informants on the staffs of United States Senators and/or Members of Congress; and/or

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<sup>8</sup> Exhibit 6 at p.1. The record of Plaintiff's *FOIA* request for the policies, rules, protocols and/or procedures that govern FBI Defendants recruitment and management of NY 29000-SI-DT and the other *Sensitive Informants* used by them is attached hereto as Exhibit 6 and incorporated by reference.

<sup>9</sup> *Id.* at p.3 (emphasis in original).

describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>10</sup>

22. Shortly thereafter, on or about April 21, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for records related to "FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE STAFF MEMBERS OF U.S. SENATORS/CONGRESSMEN."<sup>11</sup>

23. On or about March 26, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who are on the staff of state or federal judges; the placement of informants within the state or federal judiciary; and/or describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such

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<sup>10</sup> *Id.* at p. 4.

<sup>11</sup> *Id.* at p.6 (emphasis in original).

informants.<sup>12</sup>

24. Shortly thereafter, on or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for records related to "FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE STAFF MEMBERS OF STATE/FEDERAL JUDGES."<sup>13</sup>

25. On or about March 26, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who are members of or otherwise associated with the defense team in a criminal prosecution; the placement of informants within a criminal defense team; and/or describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>14</sup>

26. Shortly thereafter, on or about April 13, 2012, FBI Defendants

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<sup>12</sup> *Id.* at p. 7.

<sup>13</sup> *Id.* at p. 9 (emphasis in original).

<sup>14</sup> *Id.* at p. 10.

acknowledged receipt of Plaintiff's *FOIA* request for records related to "FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN CRIMINAL PROSECUTION DEFENSE TEAMS."<sup>15</sup>

27. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who are members of the clergy; the placement of informants within religious institutions or organizations; and/or describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>16</sup>

28. Shortly thereafter, on or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff's *FOIA* request for records related to "FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE

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<sup>15</sup> *Id.* at p. 12 (emphasis in original).

<sup>16</sup> *Id.* at p. 13.

CLERGY MEMBERS.”<sup>17</sup>

29. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who work for or are otherwise assigned to other federal agencies such as, but not limited to, the Central Intelligence Agency, United States Department of State, National Security Agency, Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Homeland Security, United States Department of the Treasury, etc.; the placement of informants within other federal agencies; and/or describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>18</sup>

30. Shortly thereafter, on or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff’s *FOIA* request for records related to “FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN

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<sup>17</sup> *Id.* at p. 15 (emphasis in original).

<sup>18</sup> *Id.* at p. 16.

OTHER FEDERAL AGENCIES.”<sup>19</sup>

31. On or about March 25, 2012, Plaintiff submitted a *FOIA* request to FBI Defendants for any and all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment and use of informants who are members of state and/or local law enforcement agencies; the placement of informants within state and/or local law enforcement agencies and/or describe, define or otherwise govern how such are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.<sup>20</sup>

32. Shortly thereafter, on or about April 13, 2012, FBI Defendants acknowledged receipt of Plaintiff’s *FOIA* request for records related to “FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN STATE & LOCAL LAW ENFORCEMENT AGENCIES.”<sup>21</sup>

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<sup>19</sup> *Id.* at p. 18 (emphasis in original).

<sup>20</sup> *Id.* at p. 19.

<sup>21</sup> *Id.* at p. 21 (emphasis in original).

V.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

33. By letter dated April 24, 2012, FBI Defendants denied, in its entirety, Plaintiff's request for the operational records of *Sensitive Informant* NY 29000-SI-DT. FBI Defendants did so claiming that pursuant to 5 *U.S.C.* § 552(b)(7)(E) they were not even required to confirm or deny the existence of records related to *Sensitive Informant* NY 29000-SI-DT because to do so would "indicate whether an individual or organization is or has been of investigatory interest."<sup>22</sup>

34. On April 29, 2012, Plaintiff appealed FBI Defendants denial of his *FOIA* request for the operational records of *Sensitive Informant* NY 29000-SI-DT. The Department of Justice's Office of Information Policy assigned that appeal number AP-2012-02348.<sup>23</sup>

35. By letter dated September 14, 2012, FBI Defendants rejected Plaintiff's appeal with respect to the operational records of *Sensitive Informant* NY 29000-SI-DT. In that letter, FBI Defendants advised Plaintiff that he had exhausted his administrative remedies and that he could now "file a lawsuit in

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<sup>22</sup> Exhibit 4 at p. 6.

<sup>23</sup> *Id.* at p. 8.

federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).”<sup>24</sup>

36. By letter dated April 24, 2012, FBI Defendants denied, in its entirety, Plaintiff’s request for the administrative records of *Sensitive Informant* NY 29000-SI-DT. FBI Defendants did so claiming that pursuant to 5 U.S.C. § 552(b)(7)(E) they were not even required to confirm or deny the existence of records with respect to Sensitive Informant NY 29000-SI-DT because to do so would “indicate whether an individual or organization is or has been of investigatory interest.”<sup>25</sup>

37. On April 29, 2012, Plaintiff appealed FBI Defendants denial of his *FOIA* request for the administrative records of *Sensitive Informant* NY 29000-SI-DT. The Department of Justice’s Office of Information Policy assigned that appeal number AP-2012-02347.<sup>26</sup>

38. By letter dated September 13, 2012, FBI Defendants rejected Plaintiff’s appeal with respect to the operational records of *Sensitive Informant* NY 29000-SI-DT. In that letter, FBI Defendants advised Plaintiff that he had exhausted his administrative remedies and that he could now “file a lawsuit in

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<sup>24</sup> *Id.* at p. 12.

<sup>25</sup> Exhibit 5 at p. 6.

<sup>26</sup> *Id.* at p. 8.



federal district court in accordance with 5 *U.S.C.* § 552(a)(4)(B).”<sup>27</sup>

39. With respect to policies, rules, protocols and/or procedures related to FBI Defendants recruitment and use of *Sensitive Informants*, Plaintiff submitted a separate FOIA request for documents governing the recruitment and use of each category of *Sensitive Informant*. That is - there was a *FOIA* request for *Sensitive Informants* in the media, on the staffs of Senators and Congressmen, on the staffs of federal and state judges, etc. Plaintiff did so in an attempt to find out exactly which organizations or elements of federal and/or state governments were the targets of FBI Defendants secret spying activity.

40. With respect to FBI Defendants use of *Sensitive Informants* who are embedded in the national news media; on the staffs of Senators, Congressmen, and/or federal judges; associated with defense teams in federal criminal prosecutions; members of religious organizations or assigned to other federal agencies, Plaintiff expected FBI Defendants to report that there were no responsive documents because FBI Defendants would not and did not engage in such unconstitutional activities.

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<sup>27</sup> *Id.* at p. 12.

41. However, on April 24, 2012, FBI Defendants responded affirmatively to Plaintiff's *FOIA* requests for all documents, including but not limited to policies, rules, protocols and/or procedures which, directly or indirectly, concern or otherwise govern the recruitment of confidential informants who are in the national news media; on defense teams in high profile federal criminal prosecutions; associated with state and local law enforcement agencies; on the staffs of Senators, Congressmen, federal judges and state judges; members of the clergy or religious organizations; and/or employed by other federal agencies; the placement of such confidential informants; and/or which describe, define or otherwise govern how such informants are to be contacted, managed, used, compensated and/or otherwise handled by the FBI, including documents that limit or restrict the recruitment and/or use of such informants.

42. In that response, FBI Defendants informed Plaintiff that they were providing him with “**documents . . . responsive to [the] multiple requests that you have submitted.**”<sup>28</sup> FBI Defendants went on to indicate to Plaintiff that the documents produced were in response to his requests for policies, rules, protocols and/or procedures governing:

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<sup>28</sup> Exhibit 6 at p. 22.(emphasis added).

FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN THE MEDIA, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN STATE AND LOCAL LAW ENFORCEMENT AGENCIES, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE CLERGY MEMBERS, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE STAFF MEMBERS OF US SENATORS/CONGRESSMEN, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WHO ARE STAFF MEMBERS OF STATE/FEDERAL JUDGES, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN OTHER FEDERAL AGENCIES, FBI RECRUITMENT/MANAGEMENT OF CONFIDENTIAL SOURCES WITHIN CRIMINAL PROSECUTION DEFENSE TEAMS.<sup>29</sup>

43. FBI Defendants produced to Plaintiff a total of 205 pages taken from their “*Corporate Policy Directive*,”<sup>30</sup> “*Confidential Human Source Validation Standards Manual*,”<sup>31</sup> “*Confidential Human Source Policy Manual*,”<sup>32</sup> and “*Domestic Investigations and Operations Guide*”<sup>33</sup> (collectively the “*Manual*”) which, as previously noted, FBI Defendants stated governed their recruitment, use

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<sup>29</sup> *Id.*(emphasis in original).

<sup>30</sup> Exhibit 7 hereto.

<sup>31</sup> Exhibit 8 hereto.

<sup>32</sup> Exhibit 9 hereto.

<sup>33</sup> Exhibit 10 hereto.

and management of all confidential informants, including entire sections devoted to their recruitment and the use of *Sensitive Informants*. FBI Defendants, however, did not provide Plaintiff with the complete *Manual*.

44. In fact, not only were entire sections of the *Manual* not produced to Plaintiff, but the portions of the *Manual* actually provided to Plaintiff in response to his *FOIA* requests were heavily redacted, especially sections 4, 5, 6, 7 and 8 of the *Confidential Human Source Policy Manual*, and sections 16, 17 and 18 of the *Domestic Investigations and Operations Guide*, all of which appear to address the recruitment and use of *Sensitive Informants*.<sup>34</sup>

45. FBI Defendants state that they redacted and/or withheld portions of the *Manual* from Plaintiff on the basis of 5 *U.S.C.* §§ (b)(1) (exempting documents classified as involving national security, but it is difficult to see how spying on the media, Senators, Congressmen or federal judges advances national security); (b)(5) (exempting inter-agency or intra agency memoranda that would not be available to a party in litigation with that agency, but it is difficult to see

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<sup>34</sup> The *Manual* also provides insight into the levels of approval required for various types of FBI under cover informant operations, including those involving the media, commission of felonies, “the payment of bribes” or “a violation of export control laws.” See e.g., Exhibit 10, *Domestic Investigations and Operations Guide*, § 17.

how any inter-agency or intra agency memoranda would be contained in FBI Defendants' domestic spying *Manual*); (b)(6)(exempting personnel, medical and similar files the disclosure of which would clearly constitute an unwarranted invasion of privacy but, again, is difficult to see how such files would even be in FBI Defendants' domestic spying *Manual*); (b)(7) (C) (further exempting material the release of which would be an unwarranted invasion of personal privacy but, once more, there would be no such personal information in FBI Defendants' domestic spying *Manual*); (b)(7)(D)(exempting materials that could be reasonably expected to disclose the identify of confidential sources, but the *Manual* does not involve any one particular informant it is a "how to spy" document); and (b)(7)(E) (exempting material that would disclose techniques and procedures used for law enforcement if disclosure could reasonably be expected to risk circumvention of the law but, finally, how could the exposure of FBI Defendants' domestic spying activities on the media, Senators, Congressmen or federal judges result in a circumvention of the law other than FBI Defendants' act of spying).<sup>35</sup>

46. On April 28, 2012, Plaintiff appealed FBI Defendants' denial of his *FOIA* request for records related to the recruitment and management of these

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<sup>35</sup> Exhibit 6 at p. 22.

*Sensitive Informants*. The Department of Justice's Office of Information Policy assigned that appeal number AP-2012-02237.<sup>36</sup>

47. By letter dated October 12, 2012, FBI Defendants rejected Plaintiff's appeal with respect to his *FOIA* request for records related to the recruitment and management of these *Sensitive Informants*. In that letter, FBI Defendants advised Plaintiff that he had exhausted his administrative remedies and that he could now "file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B)."<sup>37</sup>

**VI.**  
**FIRST CAUSE OF ACTION AS TO FBI DEFENDANTS**  
**(Refusal to Produce NY 29000-SI-DT Documents)**

48. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 47 above.

49. Plaintiff has a statutory right to the documents and/or records requested in his *FOIA Requests* to FBI Defendants for the operational and administrative records related to *Sensitive Informant* NY 29000-SI-DT.

50. FBI Defendants have possession and control of the documents and/or

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<sup>36</sup> *Id.* at p. 24.

<sup>37</sup> *Id.* at p. 29.

records requested by Plaintiff. FBI Defendants claim that these documents and/or even their existence are the exempted from disclosure by 5 *U.S.C.* § 552(b)(7)(E).

51. FBI Defendants have acted in bad faith by withholding these responsive documents and/or records from Plaintiff because, in addition to having waived the right to claim this exemption by their prior release of records on NY 29000-SI-DT, the foregoing exemption does not apply to the documents and/or records being withheld by FBI Defendants from Plaintiff because, among other reasons, *Sensitive Informant* NY 29000-SI-DT was obviously an informant and not an individual or organization who was or had been of investigatory interest, and because FBI Defendants could have redacted the name and other identifying information concerning this individual and released the documents.

52. FBI Defendants have also acted in bad faith by failing to segregate any exempt factual information contained in these responsive documents and/or records from non-exempt factual information and to thereafter release the non-exempt factual information in accordance with 5 *U.S.C.* § 552(b), which mandates that “[a]ny reasonably, segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt.”

53. Furthermore, FBI Defendants have acted in bad faith since no

exemptions would apply and/or should apply to these records because the recruitment and use of *Sensitive Informants* to infiltrate, monitor and perhaps influence the national news media is clearly in violation of the *United States Constitution*, including the *Bill of Rights*.

54. Pursuant to *FOIA*, FBI Defendants have a statutory duty to produce those documents and/or records related to *Sensitive Informant* NY 29000-SI-DT, but they have breached and continue to breach that duty.

55. FBI Defendants have no legal basis to withhold the documents and/or records requested by Plaintiff but they have unlawfully denied and continue to unlawfully deny Plaintiff access to these documents and/or records.

56. As a direct and proximate result of such denials, Plaintiff has suffered and continues to suffer grave and irreparable injury and so, too, has the American public by not knowing the scope of FBI Defendants interference with and possible control of the national news media.

57. Pursuant to 5 *U.S.C.* § 552(a)(4)(B), Plaintiff is entitled to seek judicial review of FBI Defendants decision to withhold these documents and records related to their *Sensitive Informant* NY 29000-SI-DT. Plaintiff is also clearly entitled to judicial relief in this Court as set forth in the prayer to this



*Complaint.*

**VII.**  
**SECOND CAUSE OF ACTION**  
**(Refusal to Produce *Sensitive Informant Manual*)**

58. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 57 above.

59. Plaintiff has a statutory right to the *Manual* that was the subject of his *FOIA Requests* to FBI Defendants for records related to the recruitment, use and/or management of *Sensitive Informants* who are in the national news media; on defense teams in high profile federal criminal prosecutions; among state and local law enforcement agencies; on the staffs of Senators, Congressmen, federal judges and state judges; members of the clergy or religious organizations; and/or employed by other federal agencies.

60. FBI Defendants have possession and control of the *Manual* requested by Plaintiff. FBI Defendants claim that these documents and/or records are exempt from disclosure based upon in 5 *U.S.C.* §§ (b)(1), (b)(5), (b)(6),(b)(7) (C), (b)(7)(D), and (b)(7)(E).

61. By asserting these exemptions, however, FBI Defendants have acted in bad faith since these exemptions clearly do not apply because the *Manual* does

not implicate issues of national security; does not contain inter or intra agency materials, medical files or personnel files; and its release could not possibly result in an invasion of privacy, disclose the identity of any informant, or result in a circumvention of the law.

62. FBI Defendants have also acted in bad faith by failing to segregate any exempt factual information contained in these responsive documents and/or records from non-exempt factual information and to thereafter release the non-exempt factual information in accordance with 5 *U.S.C.* § 552(b), which mandates that “[a]ny reasonably, segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt.”

63. More importantly, FBI Defendants have acted in bad faith since no exemptions would apply and/or should apply to the *Manual* because the recruitment and use of *Sensitive Informants* to secretly spy on the national news media; defense teams in high profile federal criminal prosecutions; state and local law enforcement agencies; Senators, Congressmen, federal judges, and state judges; members of the clergy, and other federal agencies is clearly in violation of the *United States Constitution*, especially the *Separation of Powers Doctrine* and the *Bill of Rights*.

64. Pursuant to *FOIA*, FBI Defendants have a statutory duty to produce this *Manual* to Plaintiff but have breached and continue to breach that duty.

65. FBI Defendants have no legal basis to withhold the documents and/or records requested by Plaintiff but they have unlawfully denied and continue to unlawfully deny Plaintiff access to these documents and/or records.

66. As a direct and proximate result of such denials, Plaintiff has suffered and continues to suffer grave and irreparable injury and so, too, has the American public by not knowing the scope of FBI Defendants domestic spying.

67. Pursuant to 5 *U.S.C.* § 552(a)(4)(B), Plaintiff is entitled to seek judicial review of FBI Defendants decision to withhold these documents and records involving their use of *Sensitive Informants*. Plaintiff is also clearly entitled to judicial relief in this Court as set forth in the prayer to this *Complaint*.

## **VIII.** **PRAYER**

Wherefore, Plaintiff respectfully requests this Court for judgment and/or other relief against FBI Defendants as follows:

1. For an expedited proceeding;
2. For an *Order* permanently enjoining FBI Defendants from

withholding the documents and/or records which Plaintiff has requested under *FOIA* and further requiring FBI Defendants to immediately produce all such documents and/or records;

3. For an *Order* awarding Plaintiff his costs, disbursements and reasonable attorney's fees pursuant to 5 *U.S.C.* § 552(a)(4)(E); and

4. For an *Order* awarding Plaintiff such other and further relief as may be equitable, just and proper under the circumstances.

DATED this 18<sup>th</sup> day of October, 2012.



Jesse C. Trentadue  
*Pro Se Plaintiff*

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